

ILLEGAL MIGRATION BILL: KEELING SCHEDULES

This document shows provisions in other enactments as they would be amended by the Bill. It is intended to assist the consideration of these provisions in the Bill and should not be taken as a definitive statement of the law as it would have effect on the enactment of the Bill.

Deletions are shown ~~struck through~~ and additions in *italics*.

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Section 8 of the Immigration Act 1971 as amended by clause 29 of the Bill

Section 8: Exceptions for seamen, aircrews and other special cases.

(1) Where a person arrives at a place in the United Kingdom as a member of the crew of a ship or aircraft under an engagement requiring him to leave on that ship as a member of the crew, or to leave within seven days on that or another aircraft as a member of its crew, then unless either—

(a) there is in force a deportation order made against him; or

(b) he has at any time been refused leave to enter the United Kingdom and has not since then been given leave to enter or remain in the United Kingdom; or

(c) an immigration officer requires him to submit to examination in accordance with Schedule 2 to this Act; he may without leave enter the United Kingdom at that place and remain until the departure of the ship or aircraft on which he is required by his engagement to leave *or*

(d) the person has ever met the four conditions in section 2 of the Illegal Migration Act 2023 (conditions relating to removal from the United Kingdom); or

(e) the person—

(i) is a member of the family of a person who has ever met those four conditions, and

(ii) meets the three conditions in section 8 of that Act (removal of family members);

he may without leave enter the United Kingdom at that place and remain until the departure of the ship or aircraft on which he is required by his engagement to leave.

(2) The Secretary of State may by order exempt any person or class of persons, either unconditionally or subject to such conditions as may be imposed by or under the order, from all or any of the provisions of this Act relating to those who are not British citizens.

An order under this subsection, if made with respect to a class of persons, shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Subject to subsection (3A) below, the provisions of this Act relating to those who are not British citizens shall not apply to any person so long as he is a member of a mission (within the meaning of the Diplomatic Privileges Act 1964), a person who is a member of the family and forms part of the household of such a member, or a person otherwise entitled to the like immunity from jurisdiction as is conferred by that Act on a diplomatic agent.

(3A) For the purposes of subsection (3), a member of a mission other than a diplomatic agent (as defined by the 1964 Act) is not to count as a member of a mission unless—

(a) he was resident outside the United Kingdom, and was not in the United Kingdom, when he was offered a post as such a member; and

(b) he has not ceased to be such a member after having taken up the post.

(4) The provisions of this Act relating to those who are not British citizens, other than the provisions relating to deportation, shall also not apply to any person so long as either—

(a) he is subject, as a member of the home forces, to service law; or

(b) being a member of a Commonwealth force or of a force raised under the law of any colony, protectorate or protected state, is undergoing or about to undergo training in the United Kingdom with any body, contingent or detachment of the home forces; or

(c) he is serving or posted for service in the United Kingdom as a member of a visiting force or of any force raised as aforesaid or as a member of an international headquarters or defence organisation designated for the time being by an Order in Council under section 1 of the International Headquarters and Defence Organisations Act 1964.

(5) Where a person having a limited leave to enter or remain in the United Kingdom becomes entitled to an exemption under this section, that leave shall continue to apply after he ceases to be entitled to the exemption, unless it has by then expired or otherwise ceased to be in force ; and a person is not to be regarded for purposes of this Act as having been settled in the United Kingdom at any time when he was entitled under the former immigration laws to any exemption corresponding to any of those afforded by subsection (3) or (4)(b) or (c) above or by any order under subsection (2) above.

(5A) An order under subsection (2) above may, as regards any person or class of persons to whom it applies, provide for that person or class to be in specified circumstances regarded (notwithstanding the order) as settled in the United Kingdom for the purposes of section 1(1) of the British Nationality Act 1981.

(6) In this section “the home forces” means any of Her Majesty’s forces other than a Commonwealth force or a force raised under the law of any associated state, colony, protectorate or protected state; “Commonwealth force” means a force of any country to which provisions of the Visiting Forces Act 1952 apply without an Order in Council under section 1 of the Act; and “visiting force” means a body, contingent or detachment of the forces of a country to which any of those provisions apply, being a body, contingent or detachment for the time being present in the United Kingdom on the invitation of Her Majesty’s Government in the United Kingdom.

Schedule 2 to the Immigration Act 1971 as amended by clauses 10 to 12 of the Bill

Schedule 2: Administrative Provisions as to Control on Entry etc.

Removals of persons refused to leave to enter and illegal entrants

8 (1) Where a person arriving in the United Kingdom is refused leave to enter, an immigration officer may, subject to sub-paragraph (2) below—

(a) give the captain of the ship or aircraft in which he arrives directions requiring the captain to remove him from the United Kingdom in that ship or aircraft; or

(b) give the owners or agents of that ship or aircraft directions requiring them to remove him from the United Kingdom in any ship or aircraft specified or indicated in the directions, being a ship or aircraft of which they are the owners or agents; or

(c) give those owners or agents directions requiring them to make arrangements for his removal from the United Kingdom in any ship or aircraft specified or indicated in the directions to a country or territory so specified, being either—

(i) a country of which he is a national or citizen; or

(ii) a country or territory in which he has obtained a passport or other document of identity; or

(iii) a country or territory in which he embarked for the United Kingdom; or

(iv) a country or territory to which there is reason to believe that he will be admitted.

(2) No directions shall be given under this paragraph in respect of anyone after the expiration of two months beginning with the date on which he was refused leave to enter the United Kingdom (ignoring any period during which an appeal by him under the Immigration Acts is pending) except that directions may be given under sub-paragraph (1)(b) or (c) after the end of that period if the immigration officer has within that period given written notice to the owners or agents in question of his intention to give directions to them in respect of that person.

9 (1) Where an illegal entrant is not given leave to enter or remain in the United Kingdom, an immigration officer may give any such directions in respect of him as in a case within paragraph 8 above are authorised by paragraph 8(1).

(2) Any leave to enter the United Kingdom which is obtained by deception shall be disregarded for the purposes of this paragraph.

10 (1) Where it appears to the Secretary of State either—

(a) that directions might be given in respect of a person under paragraph 8 or 9 above, but that it is not practicable for them to be given or that, if given, they would be ineffective; or

(b) that directions might have been given in respect of a person under paragraph 8 above but that the requirements of paragraph 8(2) have not been complied with;

then the Secretary of State may give to the owners or agents of any ship or aircraft any such directions in respect of that person as are authorised by paragraph 8(1)(c).

(2) Where the Secretary of State may give directions for a person's removal in accordance with sub-paragraph (1) above, he may instead give directions for his removal in accordance with arrangements to be made by the Secretary of State to any country or territory to which he could be removed under sub-paragraph (1).

(3) The costs of complying with any directions given under this paragraph shall be defrayed by the Secretary of State.

10A Where directions are given in respect of a person under any of paragraphs 8 to 10 above, directions to the same effect may be given under that paragraph in respect of a member of the person's family.

11A person in respect of whom directions are given under any of paragraphs 8 to 10 above may be placed, under the authority of an immigration officer or the Secretary of State, on board any ship or aircraft in which he is to be removed in accordance with the directions.

11A Paragraphs 8 to 10 do not apply to a person if—

(a) the Secretary of State is required by section 2(1) of the Illegal 15 Migration Act 2023 to make arrangements for the removal of the person from the United Kingdom, or

(b) the Secretary of State may make arrangements for the removal of the person from the United Kingdom under section 3(2) of that Act,

but see section 7 of that Act.

Detention of persons liable to examination or removal, or for the purposes of the *Illegal Migration Act 2023*

16 (1) A person who may be required to submit to examination under paragraph 2 above (*except a person who may be detained under sub-paragraph (2C) or (2D)*) may be detained under the authority of an immigration officer pending his examination and pending a decision to give or refuse him leave to enter.

(1A) A person whose leave to enter has been suspended under paragraph 2A may be detained under the authority of an immigration officer pending—

(a) completion of his examination under that paragraph; and

(b) a decision on whether to cancel his leave to enter.

(1B) A person who has been required to submit to further examination under paragraph 3(1A) may be detained under the authority of an immigration officer, for a period not exceeding 12 hours, pending the completion of the examination.

(2) If there are reasonable grounds for suspecting that a person is someone in respect of whom directions may be given under any of paragraphs 8 to 10A or 12 to 14, that person may be detained under the authority of an immigration officer pending—

(a) a decision whether or not to give such directions;

(b) his removal in pursuance of such directions.

(2A) But the detention of an unaccompanied child under sub-paragraph (2) is subject to paragraph 18B.

(2B) The detention under sub-paragraph (2) of a person to whom section 60 (limitation on detention of pregnant women) of the Immigration Act 2016 applies is subject to that section.

(2C) *A person may be detained under the authority of an immigration officer—*

(a) if the immigration officer suspects that the person meets the 10 four conditions in section 2 of the Illegal Migration Act 2023 (conditions relating to removal from the United Kingdom), pending a decision as to whether the conditions are met;

(b) if the immigration officer suspects that the Secretary of State has a duty to make arrangements for the removal of the 15 person from the United Kingdom under that section, pending a decision as to whether the duty applies;

(c) if the Secretary of State has such a duty, pending the person's removal from the United Kingdom in accordance with that section;

(d) 20 if the person meets those four conditions but the Secretary of State does not have such a duty by virtue of subsection (1) of section 3 of that Act—

(i) pending a decision to give limited leave to enter or remain under the immigration rules to the person for the purposes of that subsection,

(ii) pending a decision to give leave under section 8AA 25 of the Immigration Act 1971 (discretionary leave for persons generally ineligible for leave etc),

(iii) pending a decision to give leave under section 65(2) 30 of the Nationality and Borders Act 2022 (leave to remain for victims of slavery or human trafficking), or

(iv) pending a decision to remove the person under subsection (2) of section 3 of the Illegal Migration 35 Act 2023 (power to remove unaccompanied children), and pending their removal in accordance with that subsection.

(2D) *A person ("F") may be detained under the authority of an immigration officer—*

(a) 40 if the immigration officer suspects that F is a relevant family member in relation to a person ("P") who meets the four conditions in section 2 of the Illegal Migration Act 2023 (conditions relating to removal from the United Kingdom)—

- (i) pending a decision as to whether P meets those four conditions, and*
- (ii) pending a decision as to whether F meets the three conditions in section 8 of that Act (removal of family members);*

(b) 5 if F is a relevant family member in relation to P and the immigration officer suspects that the Secretary of State has a duty to make arrangements for the removal of P from the United Kingdom under section 2 of the Illegal Migration Act 2023, pending a decision as to whether the duty applies;

(c) 10 if F is a relevant family member in relation to P and the duty referred to in paragraph (b) applies in relation to P, pending the giving of directions for P's removal under section 7(4) or (5) of the Illegal Migration Act 2023;

(d) if F is a relevant family member in relation to P and 15 directions for P's removal have been given under section 7(4) or (5) of that Act, pending a decision as to whether to give directions in respect of F under section 8(1) of that Act;

(e) if directions are given in respect of F under section 8(1) of the Illegal Migration Act 2023, pending F's removal in accordance with that section;

(f) if F is a relevant family member in relation to P but the duty 20 referred to in paragraph (b) does not apply in relation to P by virtue of section 3(1) of that Act—

(i) pending a decision to give leave to P as mentioned in sub-paragraph (2C)(d)(i), (ii) or (iii), or

(ii) pending a decision to remove P as mentioned in 25 sub-paragraph (2C)(d)(iv), and pending the giving of directions for P's removal under section 7(4) or (5) of that Act.

(2E) 30 For the purposes of sub-paragraph (2D), a person is a "relevant family member" in relation to P if they are a member of P's family who meets the three conditions in section 8 of the Illegal Migration Act 2023.

(2F) A person who may be detained under sub-paragraph (2C) or (2D) 35 may no longer be detained under sub-paragraph (1), (1A), (1B) or (2). (2G) A person (of any age) detained under sub-paragraph (2C) or (2D) may be detained in any place that the Secretary of State considers appropriate.

2G) A person (of any age) detained under sub-paragraph (2C) or (2D) may be detained in any place that the Secretary of State considers appropriate.

(3) A person on board a ship or aircraft may, under the authority of an immigration officer, be removed from the ship or aircraft for detention under this paragraph; but if an immigration officer so requires the captain of a ship or aircraft shall prevent from disembarking in the United Kingdom any person who has arrived in the United Kingdom in the ship or aircraft and been refused leave to enter, and the captain may for that purpose detain him in custody on board the ship or aircraft.

(4) The captain of a ship or aircraft, if so required by an immigration officer, shall prevent from disembarking in the United Kingdom or before the directions for his removal have been fulfilled any person placed on board the ship or aircraft under paragraph 11 or 15 above, and the captain may for that purpose detain him in custody on board the ship or aircraft.

(4A) [Previously repealed]

(5) *See paragraph 17A for provision about the period for which persons may be detained under this paragraph.*

17 (1) A person liable to be detained under paragraph 16 above may be arrested without warrant by a constable or by an immigration officer.

(2) If—

(a) a justice of the peace is by written information on oath satisfied that there is reasonable ground for suspecting that a person liable to be arrested under this paragraph is to be found on any premises; or

(b) in Scotland, a sheriff, or a justice of the peace, having jurisdiction in the place where the premises are situated is by evidence on oath so satisfied; he may grant a warrant authorising any immigration officer or constable to enter, if need be by reasonable force], the premises named in the warrant for the purpose of searching for and arresting that person.

(3) Sub-paragraph (4) applies where an immigration officer or constable—

(a) enters premises in reliance on a warrant under sub-paragraph (2), and

(b) detains a person on the premises.

(4) A detainee custody officer may enter the premises, if need be by reasonable force, for the purpose of carrying out a search.

(5) In sub-paragraph (4)—

“detainee custody officer” means a person in respect of whom a certificate of authorisation is in force under section 154 of the Immigration and Asylum Act 1999 (c. 33) (detained persons: escort and custody), and

“search” means a search under paragraph 2(1)(a) of Schedule 13 to that Act (escort arrangements: power to search detained person).

17A (1) 20 A person liable to be detained under paragraph 16 may be detained for such period as, in the opinion of the Secretary of State, is reasonably necessary to enable the examination or removal to be carried out, the decision to be made, or the directions to be given.

(2) 25 Sub-paragraphs (1) to (2), (2C), (2D), (3) and (4) of paragraph 16 apply regardless of whether there is anything that for the time being prevents the examination or removal from being carried out, the decision from being made, or the directions from being given.

(3) Sub-paragraphs (1) and (2) are subject to—

(a) paragraph 16(1B) (power to detain for examination 30 for period not exceeding 12 hours);

(b) paragraph 16(2A) and paragraph 18B (limitation on detention of unaccompanied children);

(c) 35 paragraph 16(2B) and section 60 of the Immigration Act 2016 (limitation on detention of pregnant women).

(4) Sub-paragraph (5) applies if, while a person is detained under paragraph 16, the Secretary of State no longer considers that the examination or removal will be carried out, the decision will be made, or the directions will be given within a reasonable period of time.

(5) The person may be detained under paragraph 16 for such a further period as, in the opinion of the Secretary of State, is reasonably necessary to enable such arrangements to be made for the person's release as the Secretary of State considers to be appropriate.

Paragraph 2 of Schedule 3 to the Immigration Act 1971 as amended by clause 12 of the Bill.

Schedule 3: Supplementary Provisions as to Deportation

Detention or control pending deportation

2 (1) Where a recommendation for deportation made by a court is in force in respect of any person, and that person is not detained in pursuance of the sentence or order of any court, he shall be detained pending the making of a deportation order in pursuance of the recommendation, unless—

- (a) the court by which the recommendation is made grants bail to the person, or
- (b) the person is released on immigration bail under Schedule 10 to the Immigration Act 2016.

(1A) Where—

- (a) a recommendation for deportation made by a court on conviction of a person is in force in respect of him; and
- (b) he appeals against his conviction or against that recommendation,

the powers that the court determining the appeal may exercise include power to release the person on bail without setting aside the recommendation.

(2) Where notice has been given to a person in accordance with regulations under section 105 of the Nationality, Immigration and Asylum Act 2002 (notice of decision) of a decision to make a deportation order against him, and he is not detained in pursuance of the sentence or order of a court, he may be detained under the authority of the Secretary of State pending the making of the deportation order.

(3) Where a deportation order is in force against any person, he may be detained under the authority of the Secretary of State pending his removal or departure from the United Kingdom (and if already detained by virtue of sub-paragraph (1) or (2) above when the order is made, shall continue to be detained unless he is released on immigration bail under Schedule 10 to the Immigration Act 2016.

(3A) A person liable to be detained under sub-paragraph (1), (2) or (3) may be detained for such period as, in the opinion of the Secretary of State, is reasonably necessary to enable the deportation order to be made, or the removal to be carried out.

(3B) Sub-paragraphs (1) to (3) apply regardless of whether there is anything that for the time being prevents the deportation order from being made or the removal from being carried out.

(3C) Sub-paragraphs (3A) and (3B) are subject to sub-paragraph (4ZA) and section 60 of the Immigration Act 2016 (limitation on detention of pregnant women).

(3D) Sub-paragraph (3E) applies if, while a person is detained under sub-paragraph (1), (2) or (3), the Secretary of State no longer considers that the deportation order will be made or the removal will be carried out within a reasonable period of time.

(3E) The person may be detained under that sub-paragraph for such further period as, in the opinion of the Secretary of State, is reasonably necessary to enable such

arrangements to be made for the person's release as the Secretary of State considers to be appropriate.

(4) In relation to detention under sub-paragraph (2) or (3) above, paragraphs ~~17 to 18A~~ 17, 18, 18A and 25A to 25E of Schedule 2 to this Act shall apply as they apply in relation to detention under paragraph 16 of that Schedule; and for that purpose the reference in paragraph 17(1) to a person liable to detention includes a reference to a person who would be liable to detention upon receipt of a notice which is ready to be given to him.

(4ZA) The detention under sub-paragraph (1), (2) or (3) of a person to whom section 60 (limitation on detention of pregnant women) of the Immigration Act 2016 applies is subject to that section.

(5) The provisions of Schedule 10 to the Immigration Act 2016 that apply in relation to the grant of immigration bail by the First-tier Tribunal apply in relation to the grant of bail by the court under sub-paragraph (1) or (1A).

(6) If the court grants bail to a person under sub-paragraph (1) or (1A), Schedule 10 to the Immigration Act 2016 applies in relation to that person as if the person had been granted immigration bail by the First-tier Tribunal under that Schedule.

(7) A reference in any provision of, or made under, an enactment other than this paragraph to immigration bail granted, or a condition imposed, under Schedule 10 to the Immigration Act 2016 includes bail granted by the court under sub-paragraph (1) or (1A) or (as the case may be) a condition imposed by the court on the grant of such bail.

Section 1 of the British Nationality Act 1981 as amended by clause 36 of the Bill

Section 1: Acquisition by birth or adoption

(1) A person born in the United Kingdom after commencement, or in a qualifying territory on or after the appointed day, shall be a British citizen if at the time of the birth his father or mother is—

- (a) a British citizen; or
- (b) settled in the United Kingdom or that territory.

(1A) A person born in the United Kingdom or a qualifying territory on or after the relevant day shall be a British citizen if at the time of the birth his father or mother is a member of the armed forces.

(2) A new-born infant who, after commencement, is found abandoned in the United Kingdom, or on or after the appointed day is found abandoned in a qualifying territory, shall, unless the contrary is shown, be deemed for the purposes of subsection (1)—

- (a) to have been born in the United Kingdom after commencement [F5or in that territory on or after the appointed day]; and
- (b) to have been born to a parent who at the time of the birth was a British citizen or settled in the United Kingdom or that territory.

(3) *Subject to sections 29, 30 and 34 of the Illegal Migration Act 2023 (restriction of eligibility for citizenship etc),* a person born in the United Kingdom after commencement who is not a British citizen by virtue of subsection (1), (1A) or (2) or section 10A shall be entitled to be registered as a British citizen if, while he is a minor—

- (a) his father or mother becomes a British citizen or becomes settled in the United Kingdom; and
- (b) an application is made for his registration as a British citizen.

(3A) A person born in the United Kingdom on or after the relevant day who is not a British citizen by virtue of subsection (1), (1A) or (2) or section 10A shall be entitled to be registered as a British citizen if, while he is a minor—

- (a) his father or mother becomes a member of the armed forces; and
- (b) an application is made for his registration as a British citizen

(4) *Subject to sections 29, 30 and 34 of the Illegal Migration Act 2023 (restriction of eligibility for citizenship etc),* a person born in the United Kingdom after commencement who is not a British citizen by virtue of subsection (1) (1A) or (2) or section 10A shall be entitled, on an application for his registration as a British citizen made at any time after he has attained the age of ten years, to be registered as such a citizen if, as regards each of the first ten years of that person's life, the number of days on which he was absent from the United Kingdom in that year does not exceed 90.

(5) Where—

(a) any court in the United Kingdom [F14or, on or after the appointed day, any court in a qualifying territory] makes an order authorising the adoption of a minor who is not a British citizen; or

(b) a minor who is not a British citizen is adopted under a Convention adoption, that minor shall, if the requirements of subsection (5A) are met, be a British citizen as from the date on which the order is made or the Convention adoption is effected, as the case may be effected under the law of a country or territory outside the United Kingdom.

(5A) Those requirements are that on the date on which the order is made or the Convention adoption is effected (as the case may be)—

(a) the adopter or, in the case of a joint adoption, one of the adopters is a British citizen; and

(b) in a case within subsection (5)(b), the adopter or, in the case of a joint adoption, both of the adopters are habitually resident in the United Kingdom or in a designated territory.

(6) Where an order or a Convention adoption in consequence of which any person became a British citizen by virtue of subsection (5) ceases to have effect, whether on annulment or otherwise, the cesser shall not affect the status of that person as a British citizen.

(7) If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of subsection (4) treat the person to whom the application relates as fulfilling the requirement specified in that subsection although, as regards any one or more of the first ten years of that person's life, the number of days on which he was absent from the United Kingdom in that year or each of the years in question exceeds 90.

(8) In this section and elsewhere in this Act "settled" has the meaning given by section 50.

(9) The relevant day for the purposes of subsection (1A) or (3A) is the day appointed for the commencement of section 42 of the Borders, Citizenship and Immigration Act 2009 (which inserted those subsections).

Section 4 of the Immigration and Asylum Act 1999 amended by clause 9 of the Bill

Section 4: Accommodation

(1) The Secretary of State may provide, or arrange for the provision of, facilities for the accommodation of persons—

- (a) temporarily admitted to the United Kingdom under paragraph 21 of Schedule 2 to the 1971 Act;
- (b) released from detention under that paragraph; or
- (c) released on bail from detention under any provision of the Immigration Acts.

(2) The Secretary of State may provide, or arrange for the provision of, facilities for the accommodation of a person if—

- (a) he was (but is no longer) an asylum-seeker, and
- (b) his claim for asylum was rejected or declared inadmissible (see sections 80A and 80B of the Nationality, Immigration and Asylum Act 2002) *and section 4 of the Illegal Migration Act 2023*.

(3) The Secretary of State may provide, or arrange for the provision of, facilities for the accommodation of a dependant of a person for whom facilities may be provided under subsection (2).

(4) The following expressions have the same meaning in this section as in Part VI of this Act (as defined in section 94)—

- (a) asylum-seeker,
- (b) claim for asylum, and
- (c) dependant.

(5) The Secretary of State may make regulations specifying criteria to be used in determining—

- (a) whether or not to provide accommodation, or arrange for the provision of accommodation, for a person under this section;
- (b) whether or not to continue to provide accommodation, or arrange for the provision of accommodation, for a person under this section.

(6) The regulations may, in particular—

- (a) provide for the continuation of the provision of accommodation for a person to be conditional upon his performance of or participation in community activities in accordance with arrangements made by the Secretary of State;
- (b) provide for the continuation of the provision of accommodation to be subject to other conditions;
- (c) provide for the provision of accommodation (or the continuation of the provision of accommodation) to be a matter for the Secretary of State's discretion to a specified extent or in a specified class of case.

(7) For the purposes of subsection (6)(a)—

(a) “community activities” means activities that appear to the Secretary of State to be beneficial to the public or a section of the public, and

(b) the Secretary of State may, in particular—

(i) appoint one person to supervise or manage the performance of or participation in activities by another person;

(ii) enter into a contract (with a local authority or any other person) for the provision of services by way of making arrangements for community activities in accordance with this section;

(iii) pay, or arrange for the payment of, allowances to a person performing or participating in community activities in accordance with arrangements under this section.

(8) Regulations by virtue of subsection (6)(a) may, in particular, provide for a condition requiring the performance of or participation in community activities to apply to a person only if the Secretary of State has made arrangements for community activities in an area that includes the place where accommodation is provided for the person.

(9) A local authority or other person may undertake to manage or participate in arrangements for community activities in accordance with this section.

(10) The Secretary of State may make regulations permitting a person who is provided with accommodation under this section to be supplied also with services or facilities of a specified kind.

(11) Regulations under subsection (10)—

(a) may, in particular, permit a person to be supplied with a voucher which may be exchanged for goods or services,

(b) may not permit a person to be supplied with money,

(c) may restrict the extent or value of services or facilities to be provided, and

(d) may confer a discretion.

Section 10 of the Immigration and Asylum Act 1999 as amended by clause 10(3) and 12(3) of the Bill

Section 10: Removal of persons unlawfully in the United Kingdom

(1) A person may be removed from the United Kingdom under the authority of the Secretary of State or an immigration officer if the person requires leave to enter or remain in the United Kingdom but does not have it.

(2) Where a person ("P") is liable to be or has been removed from the United Kingdom under subsection (1), a member of P's family who meets the following three conditions may also be removed from the United Kingdom under the authority of the Secretary of State or an immigration officer, provided that the Secretary of State or immigration officer has given the family member written notice of the intention to remove him or her.

(3) The first condition is that the family member is—

- (a) P's partner,
- (b) P's child, or a child living in the same household as P in circumstances where P has care of the child,
- (c) in a case where P is a child, P's parent, or
- (d) an adult dependent relative of P.

(4) The second condition is that—

- (a) in a case where the family member has leave to enter or remain in the United Kingdom, that leave was granted on the basis of his or her family life with P;
- (b) in a case where the family member does not have leave to enter or remain in the United Kingdom, in the opinion of the Secretary of State or immigration officer the family member—
 - (i) would not, on making an application for such leave, be granted leave in his or her own right, but
 - (ii) would be granted leave on the basis of his or her family life with P, if P had leave to enter or remain.

(5) The third condition is that the family member is none of the following—

- (a) a British citizen,
- (b) an Irish citizen,
- (c) a person who has leave to enter or remain in the United Kingdom which was granted by virtue of residence scheme immigration rules.

(6) A notice given to a family member under subsection (2) invalidates any leave to enter or remain in the United Kingdom previously given to the family member.

(7) For the purposes of removing a person from the United Kingdom under subsection (1) or (2), the Secretary of State or an immigration officer may give any such direction for the removal of the person as may be given under paragraphs 8 to 10 of Schedule 2 to the 1971 Act.

(8) But subsection (7) does not apply where a deportation order is in force against a person (and any directions for such a person's removal must be given under Schedule 3 to the 1971 Act).

(9) The following paragraphs of Schedule 2 to the 1971 Act apply in relation to directions under subsection (7) (and the persons subject to those directions) as they apply in relation to directions under paragraphs 8 to 10 of Schedule 2 (and the persons subject to those directions)—

- (a) paragraph 11 (placing of person on board ship or aircraft);
- (b) paragraph ~~16(2) to (4)~~ *16(2) to (2B), (3) and (4)* (detention of person where reasonable grounds for suspecting removal directions may be given or pending removal in pursuance of directions);
- (c) paragraph 17 (arrest of person liable to be detained and search of premises for person liable to arrest);
- (ca) paragraph 17A (period for which persons may be detained);*
- (d) paragraph 18 (supplementary provisions on detention);
- (e) paragraph 18A (search of detained person);
- (f) paragraph 18B (detention of unaccompanied children);
- (g) paragraphs 19 and 20 (payment of expenses of custody etc);
- (h) [previously repealed]
- (i) [previously repealed]
- (j) paragraphs 25A to 25E (searches etc).

(10) The Secretary of State may by regulations make further provision about—

- (a) the time period during which a family member may be removed under this section;
- (b) the service of a notice under subsection (2) or sections 10A to 10E.

(11) In this section “child” means a person who is under the age of 18.

(12) *This section does not apply to a person if—*

- (a) the Secretary of State is required by section 2(1) of the Illegal 25 Migration Act 2023 to make arrangements for the removal of the person from the United Kingdom, or*
- (b) the Secretary of State may make arrangements for the removal 30 of the person from the United Kingdom under section 3(2) of that Act, but see section 7 of that Act.*

Section 94 of the Immigration and Asylum Act 1999 as amended by clause 9(3) of the Bill

Section 94: Interpretation of Part 6: support for asylum-seekers etc

(1) In this Part—

“asylum-seeker” means a person who is not under 18 and has made a claim for asylum which has been recorded by the Secretary of State but which has not been determined;

“claim for asylum” means a claim that it would be contrary to the United Kingdom’s obligations under the Refugee Convention, or under Article 3 of the Human Rights Convention, for the claimant to be removed from, or required to leave, the United Kingdom;

“the Department” means the Department of Health and Social Services for Northern Ireland;

“dependant”, in relation to an asylum-seeker or a supported person, means a person in the United Kingdom who—

(a) is his spouse;

(b) is a child of his, or of his spouse, who is under 18 and dependent on him; or

(c) falls within such additional category, if any, as may be prescribed;

“the Executive” means the Northern Ireland Housing Executive;

“housing accommodation” includes flats, lodging houses and hostels;

“local authority” means—

(a) in England and Wales, a county council, a county borough council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;

(b) in Scotland, a council constituted under section 2 of the M1 Local Government etc. (Scotland) Act 1994;

“Northern Ireland authority” has the meaning given by section 110(9).

“supported person” means—

(a) an asylum-seeker, or

(b) a dependant of an asylum-seeker, who has applied for support and for whom support is provided under section 95.

(2) References in this Part to support provided under section 95 include references to support which is provided under arrangements made by the Secretary of State under that section.

(3) For the purposes of this Part, a claim for asylum is determined at the end of such period beginning—

(a) on the day on which the Secretary of State notifies the claimant of his decision on the claim, or

(b) if the claimant has appealed against the Secretary of State's decision, on the day on which the appeal is disposed of, as may be prescribed.

(4) An appeal is disposed of when it is no longer pending for the purposes of the Immigration Acts or the M2Special Immigration Appeals Commission Act 1997.

(4A) For the purposes of the definitions of "asylum-seeker" and "failed asylum-seeker", the circumstances in which a claim is determined or rejected include where the claim is declared inadmissible under section 80A or 80B of the Nationality, Immigration and Asylum Act 2002 or section 4 of the *Illegal Migration Act 2023*

(4B) But if a claim is—

(a) declared inadmissible under section 80B ~~of that Act of the Nationality, Immigration and Asylum Act 2002~~, and

(b) nevertheless considered by the Secretary of State in accordance subsection (7) of that section, the claim ceases to be treated as determined or rejected from the time of the decision to consider the claim.

(4C) For the purposes of subsection (3), notification of a declaration of inadmissibility under section 80A or 80B ~~of that Act of the Nationality, Immigration and Asylum Act 2002~~ or under section 4 of the *Illegal Migration Act 2023* is to be treated as notification of the Secretary of State's decision on the claim.

(5) If an asylum-seeker's household includes a child who is under 18 and a dependant of his, he is to be treated (for the purposes of this Part) as continuing to be an asylum-seeker while—

(a) the child is under 18; and

(b) he and the child remain in the United Kingdom.

(6) Subsection (5) does not apply if, on or after the determination of his claim for asylum, the asylum-seeker is granted leave to enter or remain in the United Kingdom (whether or not as a result of that claim).

(7) For the purposes of this Part, the Secretary of State may inquire into, and decide, the age of any person.

(8) A notice under subsection (3) must be given in writing.

(9) If such a notice is sent by the Secretary of State by first class post, addressed—

(a) to the asylum-seeker's representative, or

(b) to the asylum-seeker's last known address, it is to be taken to have been received by the asylum-seeker on the second day after the day on which it was posted.

Section 147 of the Immigration and Asylum Act 1999 as amended by clause 11(4) of the Bill

Section 147: Interpretation of Part VIII

In this Part—

“certificate of authorisation” means a certificate issued by the Secretary of State under section 154;

“certified prisoner custody officer” means a prisoner custody officer certified under section 89 of the Criminal Justice Act 1991, or section 114 of the Criminal Justice and Public Order Act 1994, to perform custodial duties;

“contract monitor” means a person appointed by the Secretary of State under section 149(4);

“contracted out removal centre” means a removal centre in relation to which a removal centre contract is in force;

“contractor”, in relation to a removal centre which is being run in accordance with a removal centre contract, means the person who has contracted to run it;

“custodial functions” means custodial functions at a removal centre;

“detained children” means detained persons who are under the age of 18;

“detained persons” means persons detained or required to be detained under the 1971 Act or under section 62 of the Nationality, Immigration and Asylum Act 2002 (detention by Secretary of State);

“detainee custody officer” means a person in respect of whom a certificate of authorisation is in force;

“removal centre contract” means a contract entered into by the Secretary of State under section 149;

“removal centre rules” means rules made by the Secretary of State under section 153;

“directly managed removal centre” means a removal centre which is not a contracted out removal centre;

“escort arrangements” means arrangements made by the Secretary of State under section 156;

“escort functions” means functions under escort arrangements;

“escort monitor” means a person appointed under paragraph 1 of Schedule 13;

“pre-departure accommodation” means a place used solely for the detention of detained children and their families ~~for a period of—~~

(a) *for a period* of not more than 72 hours, ~~or~~

(b) *for a period of* not more than seven days in cases where the longer period of detention is authorised personally by a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975); *or*

c) *for any period, where the detention is under—*

(i) paragraph 16(2C) or (2D) of Schedule 2 to the Immigration Act 1971 (detention under authority of immigration officer for the purposes of the Illegal Migration Act 2023), or
(ii) section 62(2A) or (2B) of the Nationality, Immigration and Asylum Act 2002 (detention under authority of Secretary of State for the purposes of the Illegal Migration Act 2023);

“prisoner custody officer”—

- (a) in relation to England and Wales, has the same meaning as in the Criminal Justice Act 1991;
- (b) in relation to Scotland, has the meaning given in section 114(1) of the Criminal Justice and Public Order Act 1994;
- (c) in relation to Northern Ireland, has the meaning given in section 122(1) of that Act of 1994;

“removal centre” means a place which is used solely for the detention of detained persons but which is not a short-term holding facility, pre-departure accommodation, a prison or part of a prison;

“short-term holding facility” means a place used—

- (a) solely for the detention of detained persons for a period of not more than seven days or for such other period as may be prescribed, or
- (b) for the detention of—
 - (i) detained persons for a period of not more than seven days or for such other period as may be prescribed, and
 - (ii) persons other than detained persons for any period but which is not pre-departure accommodation.

Section 156 of the Immigration and Asylum Act 1999 as amended by clause 10(4) of the Bill.

Section 156: Arrangements for the provision of escorts and custody

- (1) The Secretary of State may make arrangements for—
- (a) the delivery of detained persons to premises in which they may lawfully be detained;
 - (b) the delivery of persons from any such premises for the purposes of their removal from the United Kingdom in accordance with directions given under the 1971 Act, ~~or this Act~~ *this Act or the Illegal Migration Act 2023*;
 - (c) the custody of detained persons who are temporarily outside such premises;
 - (d) the custody of detained persons held on the premises of any court.
- (2) Escort arrangements may provide for functions under the arrangements to be performed, in such cases as may be determined by or under the arrangements, by detainee custody officers.
- (3) “Court” includes—
- (a) the First-tier Tribunal;
 - (b) the Upper Tribunal; and
 - (c) the Commission.
- (4) Escort arrangements may include entering into contracts with other persons for the provision by them of—
- (a) detainee custody officers; or
 - (b) prisoner custody officers who are certified under section 89 of the Criminal Justice Act 1991, or section 114 or 122 of the Criminal Justice and Public Order Act 1994, to perform escort functions.
- (5) Schedule 13 makes further provision about escort arrangements.
- (6) A person responsible for performing a function of a kind mentioned in subsection (1), in accordance with a transfer direction, complies with the direction if he does all that he reasonably can to secure that the function is performed by a person acting in accordance with escort arrangements.
- (7) “Transfer direction” means
- (a) a transfer direction given under—
 - (i) section 48 of the Mental Health Act 1983 ... (removal to hospital of, among others, persons detained under the 1971 Act); or
 - (ii) in Northern Ireland, article 54 of the Mental Health (Northern Ireland) Order 1986 (provision corresponding to section 48 of the 1983 Act).or
 - (b) a transfer for treatment direction given under section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003 as applied by article 13 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005.

Section 18 of the Nationality and Immigration Asylum Act 2002 as amended by clause 9(5) of the Bill

Section 18: Asylum-seeker: definition

(1) For the purposes of this Part a person is an “asylum-seeker” if—

- (a) he is at least 18 years old,
- (b) he is in the United Kingdom,
- (c) a claim for asylum has been made by him [F1at a place designated by the Secretary of State],
- (d) the Secretary of State has recorded the claim, and
- (e) the claim has not been determined.

(1ZA) For the purposes of subsection (1), the circumstances in which a claim is determined include where the claim is declared inadmissible under section 80A or 80B of *this Act* or section 4 of the *Illegal Migration Act 2023*.

(1ZB) But if a claim is—

- (a) declared inadmissible under section 80B, and
- (b) nevertheless considered by the Secretary of State in accordance subsection (7) of that section, the claim ceases to be treated as determined from the time of the decision to consider the claim.

(2) A person shall continue to be treated as an asylum-seeker despite subsection (1)(e) while—

- (a) his household includes a dependent child who is under 18, and
- (b) he does not have leave to enter or remain in the United Kingdom.

(3) A claim for asylum is a claim by a person that to remove him from or require him to leave the United Kingdom would be contrary to the United Kingdom’s obligations under—

- (a) the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and its Protocol, or
- (b) Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4th November 1950.

Section 21 of the Nationality and Immigration Asylum Act 2002 as amended by clause 9(6) of the Bill

Section 21: Sections 17 to 20: supplementary

(2) This section applies for the purposes of sections 17 to 20.

(3) The Secretary of State may inquire into and decide a person's age.

(3) A claim for asylum shall be treated as determined at the end of such period as may be prescribed beginning with—

- (a) the date on which the Secretary of State notifies the claimant of his decision on the claim or (as the case may be) of the declaration of inadmissibility under section 80A or 80B *of this Act or section 4 of the Illegal Migration Act 2023*, or
- (b) if the claimant appeals against the Secretary of State's decision, the date on which the appeal is disposed of.

(4) A notice under subsection (3)(a)—

- (a) must be in writing, and
- (b) if sent by first class post to the claimant's last known address or to the claimant's representative, shall be treated as being received by the claimant on the second day after the day of posting.

(5) An appeal is disposed of when it is no longer pending for the purpose of—

- (a) Part 5 of this Act, or
- (b) the Special Immigration Appeals Commission Act 1997 (c. 68).

Section 62 of the Nationality and Immigration Asylum Act 2002 as amended by clause 11(5) and 12(4) of the Bill

Section 62: Detention by Secretary of State

(1) A person may be detained under the authority of the Secretary of State pending—

- (a) a decision by the Secretary of State whether to give directions in respect of the person under section 10 of the Immigration and Asylum Act 1999 (removal of persons unlawfully in the United Kingdom) or paragraph 10, 10A or 14 of Schedule 2 to the Immigration Act 1971 (c. 77) (control of entry: removal), or
- (b) removal of the person from the United Kingdom in pursuance of directions given by the Secretary of State under any of those provisions.

(2) Where the Secretary of State is empowered under section 3A of the Immigration Act 1971 (powers of Secretary of State) to examine a person or to give or refuse a person leave to enter the United Kingdom, the person may be detained under the authority of the Secretary of State pending—

- (a) the person's examination by the Secretary of State,
- (b) the Secretary of State's decision to give or refuse the person leave to enter,
- (c) a decision by the Secretary of State whether to give directions in respect of the person under paragraph 8 or 9 of Schedule 2 to that Act (removal), or
- (d) removal of the person in pursuance of directions given by the Secretary of State under either of those paragraphs.

(2A) *A person may be detained under the authority of the Secretary of State—*

- (a) if the Secretary of State suspects that the person meets the four conditions in section 2 of the Illegal Migration Act 2023 (conditions relating to removal from the United Kingdom), pending a decision as to whether the conditions are met;*
- (b) if the Secretary of State suspects that the Secretary of State has 20 a duty to make arrangements for the removal of the person from the United Kingdom under that section, pending a decision as to whether the duty applies;*
- (c) 25 if the Secretary of State has such a duty, pending the person's removal from the United Kingdom in accordance with that section;*
- (d) if the person meets those four conditions but the Secretary of State does not have such a duty by virtue of subsection (1) of section 3 of that Act—*
 - (i) pending a decision to give limited leave under the 30 immigration rules to the person for the purposes of that subsection,*
 - (ii) pending a decision to give leave under section 8AA of 35 the Immigration Act 1971 (discretionary leave for persons generally ineligible for leave etc),*
 - (iii) pending a decision to give leave under section 65(2) of the Nationality and Borders Act 2022 (leave to remain for victims of slavery or human trafficking), or*

(iv) 40 pending a decision to remove the person under subsection (2) of section 3 of the Illegal Migration Act 2023 (power to remove unaccompanied children), and pending their removal in accordance with that subsection.

(2B) 45 A person (“F”) may be detained under the authority of the Secretary of State—

(a) if the Secretary of State suspects that F is a relevant family member in relation to a person (“P”) who meets the four conditions in section 2 of the Illegal Migration Act 2023 (conditions relating to removal from the United Kingdom)—

(i) pending a decision as to whether P meets those four 5 conditions, and

(ii) pending a decision as to whether F meets the three conditions in section 8 of that Act (removal of family members);

(b) if F is a relevant family member in relation to P and the 10 Secretary of State suspects that the Secretary of State has a duty to make arrangements for the removal of P from the United Kingdom under section 2 of the Illegal Migration Act 2023, pending a decision as to whether the duty applies;

(c) if F is a relevant family member in relation to P and the duty 15 referred to in paragraph (b) applies in relation to P, pending the giving of directions for P’s removal under section 7(4) or (5) of the Illegal Migration Act 2023;

(d) 20 if F is a relevant family member in relation to P and directions for P’s removal have been given under section 7(4) or (5) of that Act, pending a decision as to whether to give directions in respect of F under section 8(1) of that Act;

(e) if directions are given in respect of F under section 8(1) of the 25 Illegal Migration Act 2023, pending F’s removal in accordance with that section; (f) if F is a relevant family member in relation to P but the duty referred to in paragraph (b) does not apply in relation to P by virtue of section 3(1) of that Act—

(i) 30 pending a decision to give leave to P as mentioned in subsection (2A)(d)(i), (ii) or (iii), or

(ii) pending a decision to remove P as mentioned in subsection (2A)(d)(iv), and pending the giving of directions for P’s removal under section 7(4) or (5) of that Act.

(2F) A person liable to be detained under this section may be 40 detained for such period as, in the opinion of the Secretary of State, is reasonably necessary to enable the decision to be made, the removal or examination to be carried out, or the directions to be given.

(2G) Subsections (1) to (2B) apply regardless of whether there is anything that for the time being prevents the decision from being made, the removal or examination from being carried out, or the directions from being given.

(2H) Subsections (2F) and (2G) are subject to—

(a) paragraph 18B of Schedule 2 to the Immigration Act 1971 (limitation on detention of unaccompanied children), as applied by subsection (3);

(b) 10 subsection (7A) and section 60 of the Immigration Act 2016 (limitation on detention of pregnant women).

(2I) Subsection (2J) applies if, while a person is detained under this section, the Secretary of State no longer considers that the decision will be made, the removal or examination will be 15 carried out, or the directions will be given within a reasonable period of time. (2J) The person may be detained under this section for such further period as, in the opinion of the Secretary of State, is reasonably necessary to enable such arrangements to be made for the 20 person's release as the Secretary of State considers to be appropriate.

(3) A provision of Schedule 2 to ~~that Act~~ *the Immigration Act 1971* about a person who is detained or liable to detention under that Schedule, *other than paragraph 17A*, shall apply to a person who is detained or liable to detention under this section: and for that purpose—

(a) a reference to paragraph 16 of that Schedule shall be taken to include a reference to this section,

(aa) a reference in paragraph 18B of that Schedule to an immigration officer shall be read as a reference to the Secretary of State,

(b) [previously repealed] and

(c) a reference to detention under that Schedule or under a provision or Part of that Schedule shall be taken to include a reference to detention under this section.

(3A) But a provision of Schedule 2 to the Immigration Act 1971 which is expressed to relate only to a person who is detained or liable to detention under sub-paragraph (2) of paragraph 16 of that Schedule does not apply to a person who is detained or liable to detention under subsection (2A) or (2B) of this section.

(4) [previously repealed]

(5) [previously repealed]

(6) [previously repealed]

(7) A power under ~~this section~~ *subsection (1) or (2)* which is exercisable pending a decision of a particular kind by the Secretary of State is exercisable where the Secretary of State has reasonable grounds to suspect that he may make a decision of that kind.

(7A) The detention under ~~this section~~ *subsection (1) or (2)* of a person to whom section 60 (limitation on detention of pregnant women) of the Immigration Act 2016 applies is subject to that section.

(8) At the end of section 11(1) of the Immigration Act 1971 (c. 77) (person not deemed to have entered United Kingdom while detained, &c.) there shall be inserted “or section 62 of the Nationality, Immigration and Asylum Act 2002”.

(9) In section 24(1)(e) of the Immigration Act 1971 (offence: failure to comply with restriction) for “or to an immigration officer” there shall be substituted “, to an immigration officer or to the Secretary of State”.

(10) In the Mental Health Act 1983 (c. 20)—

(a) at the end of section 48(2)(d) (detained persons susceptible to transfer for mental treatment: immigration) there shall be added “or under section 62 of the Nationality, Immigration and Asylum Act 2002 (detention by Secretary of State)”, and

(b) in the heading of section 53 (supplemental provision) the reference to the Immigration Act 1971 becomes a reference to the Immigration Acts.

(11) In the Mental Health (Scotland) Act 1984 (c. 36)—

(a) at the end of section 71(2)(c) (detained persons who may be transferred to hospital for mental treatment) there shall be added “or under section 62 of the Nationality, Immigration and Asylum Act 2002 (detention by the Secretary of State)”, and

(b) at the end of section 74(1)(b) (further provision about such persons) there shall be added “or under section 62 of the Nationality, Immigration and Asylum Act 2002 (detention by the Secretary of State)”.

(12) In the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4))—

(a) at the end of Article 54(2)(d) (detained persons susceptible to transfer for mental treatment: immigration) there shall be added “or under section 62 of the Nationality, Immigration and Asylum Act 2002 (detention by Secretary of State)”, and

(b) in the heading of Article 59 (supplemental provision) the reference to the Immigration Act 1971 becomes a reference to the Immigration Acts.

(13) Section 53 of the Immigration and Asylum Act 1999 (c. 33) (bail) shall be amended as follows—

(a) at the end of subsection (1) add “or under section 62 of the Nationality, Immigration and Asylum Act 2002”, and

(b) at the end of subsection (3)(a) add “or under section 62 of the Nationality, Immigration and Asylum Act 2002”.

(14) In section 147 of that Act (detention centres: interpretation) at the end of the definition of “detained persons” there shall be inserted “or under section 62 of the Nationality, Immigration and Asylum Act 2002 (detention by Secretary of State);”.

(15) [previously repealed]

(16) [previously repealed]

Section 80A of the Nationality and Immigration Asylum Act 2002 as amended by clause 10(5) and 52(2) of the Bill.

Section 80A: ~~Asylum claims by EU nationals~~ *Claims by nationals of listed safe States*

(1) The Secretary of State must declare an asylum claim *or a human rights claim* made by a person who is a national of a ~~member State~~ *State listed in section 80AA(1)* inadmissible.

(2) ~~An asylum~~ A claim declared inadmissible under subsection (1) cannot be considered under the immigration rules.

(3) A declaration under subsection (1) that ~~an asylum~~ a claim is inadmissible is not a decision to refuse the claim and, accordingly, no right of appeal under section 82(1)(a) *or (b)* (appeal against refusal of protection claim *or human rights claim*) arises.

(4) Subsection (1) does not apply if there are exceptional circumstances as a result of which the Secretary of State considers that the claim ought to be considered.

(5) For the purposes of subsection (4) exceptional circumstances include ~~where the member State of which the claimant is a national, —~~

(a) *in a case where the claimant is a national of a State that is a signatory to the Human Rights Convention, where that State is derogating from any of its obligations under the Human Rights Convention, in accordance with Article 15 of the Convention;*

(b) *in a case where the claimant is a national of a member State, where that State is the subject of a proposal initiated in accordance with the procedure referred to in Article 7(1) of the Treaty on European Union and—*

(i) the proposal has yet to be determined by the Council of the European Union or (as the case may be) the European Council,

(ii) the Council of the European Union has determined, in accordance with Article 7(1), that there is a clear risk of a serious breach by the member State of the values referred to in Article 2 of the Treaty, or

(iii) the European Council has determined, in accordance with Article 7(2), the existence of a serious and persistent breach by the member State of the values referred to in Article 2 of the Treaty.

(5A) *This section does not apply to—*

(a) *a person who meets the four conditions in section 2 of the Illegal Migration Act 2023 (duty to make arrangements for removal), or*

(b) *a person who—*

(i) is the family member of a person who meets those four conditions, and

(ii) meets the three conditions in section 8 of that Act (removal of family members).

(6) In this section *and section 80AA—*

“asylum claim”, “*human rights claim*”, “the Human Rights Convention” and “the Refugee Convention” have the meanings given by section 113;

“immigration rules” means rules under section 3(2) of the Immigration Act 1971;

“the Treaty on European Union” means the Treaty on European Union signed at Maastricht on 7 February 1992 as it had effect immediately before IP completion day.

Section 82 of the Nationality and Immigration Asylum Act 2002 as amended by clause 39(6) of the Bill

Section 82: Right of appeal to the Tribunal

(1) A person (“P”) may appeal to the Tribunal where—

- (a) the Secretary of State has decided to refuse a protection claim made by P,
- (b) the Secretary of State has decided to refuse a human rights claim made by P, or
- (c) the Secretary of State has decided to revoke P's protection status.

(2) For the purposes of this Part—

(a) a “protection claim” is a claim made by a person (“P”) that removal of P from the United Kingdom—

(i) would breach the United Kingdom's obligations under the Refugee Convention, or

(ii) would breach the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection;

(b) P's protection claim is refused if the Secretary of State makes one or more of the following decisions—

(i) that removal of P from the United Kingdom would not breach the United Kingdom's obligations under the Refugee Convention;

(ii) that removal of P from the United Kingdom would not breach the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection;

(c) a person has “protection status” if the person has been granted leave to enter or remain in the United Kingdom as a refugee or as a person eligible for a grant of humanitarian protection;

(d) “humanitarian protection” is to be construed in accordance with the immigration rules;

(e) “refugee” has the same meaning as in the Refugee Convention.

(3) The right of appeal under subsection (1) is subject to the exceptions and limitations specified in this Part *and in section 39(4) of the Illegal Migration Act 2023 (relationship with other proceedings)*.

Paragraph 17 of Schedule 3 to the Nationality and Immigration Asylum Act 2002 as amended by clause 9(7) of the Bill

Schedule 3: Withholding and withdrawal of support

Interpretation

17 (1) In this Schedule—

“asylum-seeker” means a person—

- (a) who is at least 18 years old,
- (b) who has made a claim for asylum (within the meaning of section 18(3)), and
- (c) whose claim has been recorded by the Secretary of State but not determined,

“Convention rights” has the same meaning as in the Human Rights Act 1998 (c. 42),

“child” means a person under the age of eighteen,

“dependant” and “dependent” shall have such meanings as may be prescribed by regulations made by the Secretary of State,

“EEA State” means a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as it has effect from time to time),

“local authority”—

- (a) in relation to England and Wales, has the same meaning as in section 129(3),
- (b) in relation to Scotland, has the same meaning as in section 129(4), and
- (c) in relation to Northern Ireland, means a health service body within the meaning of section 133(4)(d) and the Northern Ireland Housing Executive (for which purpose a reference to the authority’s area shall be taken as a reference to Northern Ireland),

“the Refugee Convention” means the Convention relating to the status of Refugees done at Geneva on 28th July 1951 and its Protocol, and

“removal directions” means directions under Schedule 2 to the Immigration Act 1971 (c. 77) (control of entry, &c.), under Schedule 3 to that Act (deportation) or under section 10 of the Immigration and Asylum Act 1999 (c. 33) (removal of person unlawfully in United Kingdom).

(2) For the purpose of the definition of “asylum-seeker” in sub-paragraph (1) a claim is determined if—

- (a) the Secretary of State has notified the claimant of his decision,

(b) no appeal against the decision can be brought (disregarding the possibility of an appeal out of time with permission), and

(c) any appeal which has already been brought has been disposed of.

(2A) For the purposes of the definition of “asylum-seeker” in sub-paragraph (1), a claim is also determined if the Secretary of State has notified the claimant that it has been declared inadmissible under section 80A or 80B *of this Act or section 4 of the Illegal Migration Act 2023*.

(2B) But if a claim is—

(a) declared inadmissible under section 80B, and

(b) nevertheless considered by the Secretary of State in accordance subsection (7) of that section,

the claim ceases to be treated as determined from the time of the decision to consider the claim.

(3) For the purpose of sub-paragraph (2)(c) an appeal is disposed of when it is no longer pending for the purpose of—

(a) Part 5 of this Act, or

(b) the Special Immigration Appeals Commission Act 1997 (c. 68).

(4) The giving of directions in respect of a person under a provision of the Immigration Acts is not the provision of assistance to him for the purposes of this Schedule.

Paragraphs 3, 8 and 13 of Schedule 3 to of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 as amended by clause 10(6) of the Bill

Schedule 3: Removal of asylum seeker to safe country

Part 2: First list of safe countries (Refugee Convention and Human Rights)

3 (1) This paragraph applies for the purposes of the determination by any person, tribunal or court whether a person who has made an asylum claim or a human rights claim (the “claimant”) may be removed—

- (a) from the United Kingdom, and
- (b) to a State of which he is not a national or citizen.

(1A) Unless the contrary is shown by the claimant to be the case in their particular circumstances, a State to which this Part applies is to be treated, in so far as relevant to the question mentioned in sub-paragraph (1), as a place—

- (a) to which a person can be removed without their Convention rights under Article 3 (no torture or inhuman or degrading treatment or punishment) being contravened, and
- (b) from which a person will not be sent to another State in contravention of their Convention rights.

(2) A State to which this Part applies shall be treated, in so far as relevant to the question mentioned in sub-paragraph (1), as a place—

- (a) where a person’s life and liberty are not threatened by reason of his race, religion, nationality, membership of a particular social group or political opinion,
- (b) [previously repealed] and
- (c) from which a person will not be sent to another State otherwise than in accordance with the Refugee Convention.

(3) *This paragraph does not apply for the purposes of determining whether a person who has made an asylum claim or a human rights claim may be removed from the 10 United Kingdom to a State of which the person is not a national or citizen if—*

- (a) the Secretary of State is required by section 2(1) of the Illegal Migration Act 2023 to make arrangements for the removal of the person from the United Kingdom, or*
- (b) the Secretary of State may make arrangements for 15 the removal of the person from the United Kingdom under section 3(2) of that Act,*

but see section 5 of that Act.

Part 3: Second list of safe countries (Refugee Convention and Human Rights)

8 (1) This paragraph applies for the purposes of the determination by any person, tribunal or court whether a person who has made an asylum claim may be removed—

- (a) from the United Kingdom, and

(b) to a State of which he is not a national or citizen.

(2) A State to which this Part applies shall be treated, in so far as relevant to the question mentioned in sub-paragraph (1), as a place—

(a) where a person's life and liberty are not threatened by reason of his race, religion, nationality, membership of a particular social group or political opinion, and

(b) from which a person will not be sent to another State otherwise than in accordance with the Refugee Convention.

(3) This paragraph does not apply for the purposes of 35 determining whether a person who has made an asylum claim may be removed from the United Kingdom to a State of which the person is not a national or citizen if—

(a) the Secretary of State is required by section 2(1) of the Illegal Migration Act 2023 to make arrangements 40 for the removal of the person from the United Kingdom, or

(b) the Secretary of State may make arrangements for the removal of the person from the United Kingdom under section 3(2) of that Act,

but see section 5 of that Act.

Part 4: Third list of safe countries (Refugee Convention only)

13 (1) This paragraph applies for the purposes of the determination by any person, tribunal or court whether a person who has made an asylum claim may be removed—

(a) from the United Kingdom, and

(b) to a State of which he is not a national or citizen.

(2) A State to which this Part applies shall be treated, in so far as relevant to the question mentioned in sub-paragraph (1), as a place—

(a) where a person's life and liberty are not threatened by reason of his race, religion, nationality, membership of a particular social group or political opinion, and

(b) from which a person will not be sent to another State otherwise than in accordance with the Refugee Convention.

(3) This paragraph does not apply for the purposes of determining whether a person who has made an asylum claim may be removed from the United Kingdom to a State of which the person is not a national or citizen if the Secretary of State is required by section 1(1) of the Illegal Migration Act 2023 to make arrangements for the removal of the person from the United Kingdom (but see section 4 of that Act).

Section 36 of the UK Borders Act 2007 as amended by clause 12(5) of the Bill

Section 36: Deportation of criminals

(1) A person who has served a period of imprisonment may be detained under the authority of the Secretary of State—

- (a) while the Secretary of State considers whether section 32(5) applies, and
- (b) where the Secretary of State thinks that section 32(5) applies, pending the making of the deportation order.

(1A) A person liable to be detained under subsection (1) may be detained for such period as, in the opinion of the Secretary of State, is reasonably necessary to enable the decision as to whether section 32(5) applies, or the deportation order, to be made.

(1B) Subsection (1) applies regardless of whether there is anything that for the time being prevents the decision or the deportation order from being made.

(1C) Subsections (1A) and (1B) are subject to subsection (2A) and section 60 of the Immigration Act 2016 (limitation on detention of pregnant women).

(1D) Subsection (1E) applies if, while a person is detained under subsection (1), the Secretary of State no longer considers that the decision or the deportation order will be made within a reasonable period of time.

(1E) The person may be detained under subsection (1) for such further period as, in the opinion of the Secretary of State, is reasonably necessary to enable such arrangements to be made for the person's release as the Secretary of State considers to be appropriate.

(2) Where a deportation order is made in accordance with section 32(5) the Secretary of State shall exercise the power of detention under paragraph 2(3) of Schedule 3 to the Immigration Act 1971 (c. 77) (detention pending removal) unless the person is granted immigration bail under Schedule 10 to the Immigration Act 2016.

(2A) The detention under subsection (1) of a person to whom section 60 (limitation on detention of pregnant women) of the Immigration Act 2016 applies is subject to that section.

(3) A court determining an appeal against conviction or sentence may [F3release a person on bail] from detention under subsection (1) or (2).

(3A) The provisions of Schedule 10 to the Immigration Act 2016 that apply in relation to the grant of immigration bail by the First-tier Tribunal apply in relation to the grant of bail by the court under subsection (3).

(3B) If the court grants bail to a person under subsection (3), Schedule 10 to the Immigration Act 2016 applies in relation to that person as if the person had been granted immigration bail by the First-tier Tribunal under that Schedule.

(3C) A reference in any provision of, or made under, an enactment other than this section to immigration bail granted, or a condition imposed, under Schedule 10 to the Immigration Act 2016 includes bail granted by the court under subsection (3) or (as the case may be) a condition imposed by the court on the grant of such bail.]

(4) Provisions of the Immigration Act 1971 which apply to detention under paragraph 2(3) of Schedule 3 to that Act shall apply to detention under subsection (1).

(5) [previously repealed]

Section 61 of the UK Borders Act 2007 as amended by clause 55(4) of the Bill

Section 61: General

(1) This Act may be cited as the UK Borders Act 2007.

(2) A reference (in any enactment, including one passed or made before this Act) to “the Immigration Acts” is to—

- (a) the Immigration Act 1971 (c. 77),
- (b) the Immigration Act 1988 (c. 14),
- (c) the Asylum and Immigration Appeals Act 1993 (c. 23),
- (d) the Asylum and Immigration Act 1996 (c. 49),
- (e) the Immigration and Asylum Act 1999 (c. 33),
- (f) the Nationality, Immigration and Asylum Act 2002 (c. 41),
- (g) the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19),
- (h) the Immigration, Asylum and Nationality Act 2006 (c. 13),
- (i) this Act
- (j) the Immigration Act 2014
- (k) the Immigration Act 2016
- (l) Part 1 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (and Part 3 so far as relating to that Part), ~~and~~
- (m) the Nationality and Borders Act 2022, *and*
- (n) *the Illegal Migration Act 2023*.

(3) Section 64(2) of the Immigration, Asylum and Nationality Act 2006 (meaning of “Immigration Acts”) shall cease to have effect.

(4) In the definition of “The Immigration Acts” in Schedule 1 to the Interpretation Act 1978 (c. 30) (defined expressions) for “section 64 of the Immigration, Asylum and Nationality Act 2006” substitute “section 61 of the UK Borders Act 2007”.

Section 54A of the Borders, Citizenship and Immigration Act 2009 as amended by clause 14 of the Bill.

Section 54A: Independent Family Returns Panel

- (1) The Independent Family Returns Panel is established.
- (2) The Secretary of State must consult the Independent Family Returns Panel—
- (a) in each family returns case, on how best to safeguard and promote the welfare of the children of the family, and
 - (b) in each case where the Secretary of State proposes to detain a family in pre-departure accommodation, on the suitability of so doing, having particular regard to the need to safeguard and promote the welfare of the children of the family.
- (3) A family returns case is a case where—
- (a) a child who is living in the United Kingdom is to be removed from or required to leave the United Kingdom, and
 - (b) an individual who—
 - (i) is a parent of the child or has care of the child, and
 - (ii) is living in a household in the United Kingdom with the child, is also to be removed from or required to leave the United Kingdom.
- (3A) The duty under subsection (2)(a) does not apply where the proposed removal is for the purposes of section 2 of the Illegal Migration Act 2023 (duty to make arrangements for removal) or under section 7 of that Act (power to remove family members).*
- (3B) The duty under subsection (2)(b) does not apply where the proposed detention is under—*
- (a) paragraph 16(2C) or (2D) of Schedule 2 to the Immigration Act 1971 (detention under authority of immigration officer relating to removal under the Illegal Migration Act 2023), or*
 - (b) section 62(2A) or (2B) of the Nationality, Immigration and Asylum Act 2002 (detention under authority of Secretary of State relating to removal under the Illegal Migration Act 2023).*
- (4) The Secretary of State may by regulations make provision about—
- (a) additional functions of the Independent Family Returns Panel,
 - (b) its status and constitution,
 - (c) the appointment of its members,
 - (d) the payment of remuneration and allowances to its members, and
 - (e) any other matters in connection with its establishment and operation.
- (5) Regulations under this section must be made by statutory instrument.
- (6) An instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section—

“child” means a person who is under the age of 18;

“pre-departure accommodation” has the same meaning as in Part 8 of the Immigration and Asylum Act 1999;

references to a person being removed from or required to leave the United Kingdom are to the person being removed or required to leave in accordance with a provision of the Immigration Acts.

Section 50A of Modern Slavery Act 2015 as amended by clause 27(1) of the Bill

Section 50A: Identified potential victims etc: assistance and support

(1) The Secretary of State must secure that any necessary assistance and support is available to an identified potential victim (within the meaning given by section 61 of the Nationality and Borders Act 2022 (the “2022 Act”)) during the recovery period.

(2) For the purposes of this section, assistance and support is “necessary” if the Secretary of State considers that it is necessary for the purpose of assisting the person receiving it in their recovery from any physical, psychological or social harm arising from the conduct which resulted in the positive reasonable grounds decision in question.

(3) Subsection (4) applies where a further RG decision, within the meaning given by section 62 of the 2022 Act, is made in relation to a person.

(4) If the Secretary of State determines that it is appropriate to do so, the Secretary of State must secure that any necessary assistance and support is available to the person during the period—

(a) beginning with the day on which the further RG decision is made, and

(b) ending with whichever of the following is the later—

(i) the day on which the conclusive grounds decision is made in relation to the further RG decision;

(ii) the end of the period of 30 days beginning with the day mentioned in paragraph (a).

(5) Any duty under subsection (1) or (4) ceases to apply in relation to a person in respect of whom a determination is made under section 63(2) of the 2022 Act (disqualification from protection).

(5A) This section is subject to section 22 of the Illegal Migration Act 2023 (provisions relating to support: England and Wales).

(6) In this section, a reference to assistance and support is to assistance and support provided in accordance with—

(a) arrangements referred to in section 49(1)(b), or

(b) regulations made under section 50.

(7) In this section—

“conclusive grounds decision” has the same meaning as in Part 5 of the 2022 Act (see section 69 of that Act);

“recovery period” has the same meaning as in section 61 of that Act.”

Section 9 of the Human Trafficking and Exploitation (Scotland) Act 2015 as amended by clause 27(3) of the Bill

Section 9: Support and assistance: victims of offence of human trafficking

(1) Where there are reasonable grounds to believe that an adult is a victim of an offence of human trafficking, the Scottish Ministers must, during the relevant period, secure for the adult the provision of such support and assistance as they consider necessary given the adult's needs.

(2) The relevant period—

(a) begins on the date it is determined there are reasonable grounds to believe that the adult is a victim of an offence of human trafficking, and

(b) ends on the earlier of the following—

(i) the end of the period specified in regulations made by the Scottish Ministers, or

(ii) the date on which there is a conclusive determination that the adult is or is not a victim of an offence of human trafficking.

(3) The Scottish Ministers may also secure the provision of that support and assistance for an adult—

(a) during the period in which a competent authority is determining whether or not there are reasonable grounds to believe that the adult is a victim of an offence of human trafficking,

(b) where the relevant period in relation to the adult ends by virtue of subsection (2)(b)(i), during the period until there is a conclusive determination that the adult is or is not a victim of an offence of human trafficking,

(c) for such period as they think appropriate after the conclusive determination.

(4) Support and assistance may be provided under this section in connection with (but is not limited to) the following—

(a) accommodation,

(b) day to day living,

(c) medical advice and treatment (including psychological assessment and treatment),

(d) language translation and interpretation,

(e) counselling,

(f) legal advice,

(g) information about other services available to the adult,

(h) repatriation.

(5) In securing the provision of support and assistance under this section to an adult, the Scottish Ministers must ensure that—

(a) support and assistance is only provided where the adult consents, and

(b) the provision of support and assistance is not made conditional on the adult assisting with a criminal investigation or prosecution.

(6) For the purposes of this section—

(a) there are reasonable grounds to believe that the adult is a victim of an offence of human trafficking if a competent authority has determined for the purposes of Article 10 of the Trafficking Convention (identification of victims) that there are such grounds,

(b) there is a conclusive determination that an adult is or is not a victim of an offence of human trafficking when, on completion of the identification process required by that Article, a competent authority concludes that the adult is or is not such a victim.

(7) In this section—

“competent authority” means a person who is a competent authority of the United Kingdom for the purposes of the Trafficking Convention,

“the Trafficking Convention” means the Council of Europe Convention on Action against Trafficking in Human Beings (done at Warsaw on 16 May 2005).

(8) The Scottish Ministers may by regulations modify subsections (6) and (7) to make provision about the circumstances in which—

(a) there are reasonable grounds to believe that the adult is a victim of an offence of human trafficking,

(b) there is a conclusive determination that an adult is or is not a victim of an offence of human trafficking.

(9) Regulations under subsection (8) may in particular make provision about—

(a) the procedure to be followed by a person in making a determination,

(b) the criteria to be applied by a person in making a determination, and

(c) the persons who may make a determination or take any step in the procedure.

(10) This section is subject to section 23 of the Illegal Migration Act 2023 (provisions relating to support: Scotland).

Section 10 of the Human Trafficking and Exploitation (Scotland) Act 2015 as amended by clause 27(4) of the Bill

Section 10: Support and assistance: victims of an offence under section 4

(1) The Scottish Ministers may by regulations make provision about providing support and assistance to an adult who is, or appears to be, a victim of an offence under section 4.

(2) Regulations under subsection (1) may in particular make provision about—

- (a) the method of determining whether an adult is, or appears to be, a victim of an offence under section 4,
- (b) the period during which support and assistance must be provided,
- (c) the period during which support and assistance may be provided,
- (d) the types of support and assistance to be provided, and
- (e) the manner in which the support and assistance is to be provided.

(3) This section is subject to section 23 of the Illegal Migration Act 2023 (provisions relating to support: Scotland).

Section 18 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 as amended by clause 27(5) of the Bill

Section 18: Assistance and support pending determination by competent authority

(1) The Department must ensure that a person to whom this section applies is provided with assistance and support in accordance with this section.

(2) This section applies to a person if—

(a) that person is aged 18 or over or, in a case where the age of the person is uncertain, the Department reasonably believes that person is aged 18 or over; and

(b) a reference relating to that person has been, or is about to be, made to the competent authority for a determination for the purposes of Article 10 of the Trafficking Convention as to whether there are reasonable grounds to believe that the person is a qualifying victim.

(3) Assistance and support is to be provided under this section until there is made in relation to that person—

(a) a determination that there are not reasonable grounds to believe that the person is a qualifying victim; or

(b) a conclusive determination that the person is or is not a qualifying victim ;

but if a conclusive determination that a person is a qualifying victim is made within the relevant period, assistance and support is to be provided until the end of that period.

(4) The relevant period is the period of 45 days, or such longer period as the Department thinks necessary, from the date on which the determination mentioned in subsection (2)(b) is made by the competent authority.

(5) Assistance and support provided to a person under this section—

(a) must not be conditional on the person's acting as a witness in any criminal proceedings;

(b) must only be provided with the agreement of that person;

(c) must be provided in a manner which takes due account of the needs of that person as regards safety and protection from harm;

(d) must be provided to meet the assessed needs of that person, having regard in particular to any special needs or vulnerabilities of that person caused by gender, pregnancy, physical or mental illness, disability or being the victim of serious violence or serious abuse.

(6) Assistance and support under this section must be offered from a person who is of the same gender as the person receiving it.

(7) The assistance and support which may be provided under this section includes, but is not to be restricted to, the provision of—

(a) appropriate and safe accommodation;

(b) material assistance (including financial assistance);

- (c) assistance in obtaining healthcare services (including counselling);
- (d) appropriate information on any matter of relevance or potential relevance to the particular circumstances of the person;
- (e) translation and interpretation services;
- (f) assistance in obtaining legal advice or representation;
- (g) assistance with repatriation.

(8) Where assistance and support has been provided to any person under this section, it may continue to be provided even if that person leaves Northern Ireland.

(9) Where—

- (a) assistance and support has been provided to a person under this section; and
- (b) that person ceases, by virtue of a conclusive determination that the person is a qualifying victim or the ending of the relevant period, to be a person to whom assistance and support is to be provided under this section,

the Department may nevertheless ensure that assistance and support continues to be provided to that person under this section for such further period of up to 12 months, or longer than 12 months, as the Department thinks necessary.

(10) Nothing in this section affects the entitlement of any person to assistance and support under any other statutory provision.

(10A) This section is subject to section 24 of the Illegal Migration Act 2023 (provisions relating to support: Northern Ireland).

(11) In this section, “qualifying victim” means—

- (a) a victim of trafficking in human beings, or
- (b) a victim of—
 - (i) slavery or servitude, or
 - (ii) forced or compulsory labour.

Paragraphs 1 and 3 of Schedule 10 to the Immigration Act 2016 as amended by clause 13 of the Bill

Schedule 10: immigration bail

Power to grant immigration bail

1 (1) The Secretary of State may grant a person bail if—

- (a) the person is being detained under paragraph 16(1), (1A), ~~or (2)~~ (2), (2C) or (2D) of Schedule 2 to the Immigration Act 1971 (detention of persons liable to examination or removal),
- (b) the person is being detained under paragraph 2(1), (2) or (3) of Schedule 3 to that Act (detention pending deportation),
- (c) the person is being detained under section 62 of the Nationality, Immigration and Asylum Act 2002 (detention of persons liable to examination or removal), or
- (d) the person is being detained under section 36(1) of the UK Borders Act 2007 (detention pending deportation).

(2) The Secretary of State may grant a person bail if the person is liable to detention under a provision mentioned in sub-paragraph (1).

(3) The First-tier Tribunal may, on an application made to the Tribunal for the grant of bail to a person, grant that person bail if—

- (a) the person is being detained under paragraph 16(1), (1A), ~~or (2)~~ (2), (2C) or (2D) of Schedule 2 to the Immigration Act 1971,
- (b) the person is being detained under paragraph 2(1), (2) or (3) of Schedule 3 to that Act,
- (c) the person is being detained under section 62 of the Nationality, Immigration and Asylum Act 2002, or
- (d) the person is being detained under section 36(1) of the UK Borders Act 2007.

(4) In this Schedule references to the grant of immigration bail, in relation to a person, are to the grant of bail to that person under any of sub-paragraphs (1) to (3) or under paragraph 10(12) or (13) (release following arrest for breach of bail conditions).

(5) A person may be granted and remain on immigration bail even if the person can no longer be detained, if—

- (a) the person is liable to detention under a provision mentioned in sub-paragraph (1), or
- (b) the Secretary of State is considering whether to make a deportation order against the person under section 5(1) of the Immigration Act 1971.

(6) A grant of immigration bail to a person does not prevent the person's subsequent detention under a provision mentioned in sub-paragraph (1).

(7) For the purposes of this Schedule a person is on immigration bail from when a grant of immigration bail to the person commences to when it ends.

(8) A grant of immigration bail to a person ends when—

- (a) in a case where sub-paragraph (5) applied to the person, that sub-paragraph no longer applies to the person,
- (b) the person is granted leave to enter or remain in the United Kingdom,
- (c) the person is detained under a provision mentioned in sub-paragraph (1), or
- (d) the person is removed from or otherwise leaves the United Kingdom.

(9) This paragraph is subject to paragraph 3 (exercise of power to grant immigration bail *and paragraph 3A (legal 30 proceedings)*).

Exercise of power to grant immigration bail

3 (1) The Secretary of State or the First-tier Tribunal must have regard to the matters listed in sub-paragraph (2) in determining—

- (a) whether to grant immigration bail to a person, and
- (b) the conditions to which a person's immigration bail is to be subject.

(2) Those matters are—

- (a) the likelihood of the person failing to comply with a bail condition,
- (b) whether the person has been convicted of an offence (whether in or outside the United Kingdom or before or after the coming into force of this paragraph),
- (c) the likelihood of a person committing an offence while on immigration bail,
- (d) the likelihood of the person's presence in the United Kingdom, while on immigration bail, causing a danger to public health or being a threat to the maintenance of public order,
- (e) whether the person's detention is necessary in that person's interests or for the protection of any other person,

(eza) whether the Secretary of State has a duty to make arrangements for the removal of the person from the United Kingdom under section 2(1) of the Illegal Migration Act 2023.

(ezb) whether the Secretary of State has a duty to make arrangements for the removal of another person ("P") under that section, where the person whose immigration bail is being considered is a member of P's family and meets the three conditions in section 8 of the Illegal Migration Act 2023 (power to remove family member).

(ea) whether the person has failed without reasonable excuse to cooperate with any process—

- (i) for determining whether the person requires or should be granted leave to enter or remain in the United Kingdom,
- (ii) for determining the period for which the person should be granted such leave and any conditions to which it should be subject,
- (iii) for determining whether the person's leave to enter or remain in the United Kingdom should be varied, curtailed, suspended or cancelled,

(iv) for determining whether the person should be removed from the United Kingdom, or

(v) for removing the person from the United Kingdom, and

(f) such other matters as the Secretary of State or the First-tier Tribunal thinks relevant.

(3) A person who is being detained under paragraph 16(1) of Schedule 2 to the Immigration Act 1971 must not be granted immigration bail by the First-tier Tribunal until after the end of the period of 8 days beginning with the date of the person's arrival in the United Kingdom.

(3A) A person who is being detained under—

(a) paragraph 16(2C) or (2D) of that Schedule, or

(b) section 62(2A) or (2B) of the Nationality, Immigration and Asylum Act 2002,

must not be granted immigration bail by the First-tier Tribunal until after the end of the period of 28 days beginning with the date on which the person's detention under that provision began.

(4) A person must not be granted immigration bail by the First-tier Tribunal without the consent of the Secretary of State if—

(a) directions for the removal of the person from the United Kingdom are for the time being in force, and

(b) the directions require the person to be removed from the United Kingdom within the period of 14 days beginning with the date of the decision on whether the person should be granted immigration bail.

(5) If the Secretary of State or the First-tier Tribunal decides to grant, or to refuse to grant, immigration bail to a person, the Secretary of State or the Tribunal must give the person notice of the decision.

(6) Where the First-tier Tribunal is required under sub-paragraph (5) to give a person notice of a decision, it must also give the Secretary of State notice of the decision.

(7) Where the decision is to grant immigration bail, a notice under sub-paragraph (5) or (6) must state—

(a) when the grant of immigration bail commences, and

(b) the bail conditions.

(8) The commencement of a grant of immigration bail may be specified to be conditional on arrangements specified in the notice being in place to ensure that the person is able to comply with the bail conditions.

Legal proceedings

3A (1) This paragraph applies in relation to—

(a) a decision to detain a person under the authority of an immigration officer under paragraph 16(2C) or (2D) of Schedule 2 to the Immigration Act 1971,

(b) a decision to detain a person under the authority of the 20 Secretary of State under section 62(2A) or (2B) of the Nationality, Immigration and Asylum Act 2002, and

(c) where a person is being detained under a provision mentioned in paragraph (a) or (b), a decision of the Secretary of State to refuse to grant immigration bail to the person.

(2) 25 In relation to detention during the relevant period, the decision is final and is not liable to be questioned or set aside in any court.

(3) In particular—

(a) the powers of the immigration officer or the Secretary of State (as the case may be) are not to be regarded as having 30 been exceeded by reason of any error made in reaching the decision;

(b) the supervisory jurisdiction does not extend to, and no application or petition for judicial review may be made or brought in relation to, the decision.

(4) 35 Sub-paragraphs (2) and (3) do not apply so far as the decision involves or gives rise to any question as to whether the immigration officer or the Secretary of State is acting or has acted—

(a) in bad faith, or

(b) in such a procedurally defective way as amounts to a fundamental breach of the principles of natural justice.

(5) Sub-paragraphs (2) and (3) do not affect any right of a person to 40 apply for a writ of habeas corpus or any other prerogative remedy.

(6) In this paragraph—

“decision” includes any purported decision; “relevant period” means the period of 28 days beginning with the date on which the person’s detention under the provision mentioned in sub-paragraph (1) began; 5 “the supervisory jurisdiction” means the supervisory jurisdiction of—

(a) the High Court, in England and Wales or Northern Ireland, or

(b) the Court of Session, in Scotland.

(7) 10 In the application of this paragraph to Scotland a reference to an application for a writ of habeas corpus is to be read as a reference to the presentation of a Bill of Suspension.

Section 60 of the Immigration Act 2016 as amended by clause 11(11) of the Bill

Section 60: Limitation on detention of pregnant women

(1) This section applies to a woman if the Secretary of State is satisfied that the woman is pregnant.

(2) A woman to whom this section applies may not be detained under a relevant detention power unless the Secretary of State is satisfied that—

- (a) the woman will shortly be removed from the United Kingdom, or
- (b) there are exceptional circumstances which justify the detention.

(3) In determining whether to authorise the detention under a relevant detention power of a woman to whom this section applies, a person who, apart from this section, has power to authorise the detention must have regard to the woman's welfare.

(4) A woman to whom this section applies may not be detained under a relevant detention power for a period of—

- (a) more than 72 hours from the relevant time, or
- (b) more than seven days from the relevant time, in a case where the longer period of detention is authorised personally by a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975).

(5) In subsection (4) “the relevant time” means the later of—

- (a) the time at which the Secretary of State is first satisfied that the woman is pregnant, and
- (b) the time at which the detention begins.

(6) A woman to whom this section applies who has been released following detention under a relevant detention power may be detained again under such a power in accordance with this section.

(7) This section does not apply to the detention under paragraph 16(2) of Schedule 2 to the Immigration Act 1971 of an unaccompanied child to whom paragraph 18B of that Schedule applies.

(8) In this section—

“relevant detention power” means a power to detain under—

- (a) paragraph 16(2) of Schedule 2 to the Immigration Act 1971 (detention of persons liable to examination or removal),
- (b) paragraph 2(1), (2) or (3) of Schedule 3 to that Act (detention pending deportation),
- (c) section 62(1) or (2) of the Nationality, Immigration and Asylum Act 2002 (detention of persons liable to examination or removal), or
- (d) section 36(1) of the UK Borders Act 2007 (detention pending deportation);

“woman” means a female of any age.

Section 69 of Immigration Act 2016 as amended by clause 20 of the Bill

Section 69: Transfer of responsibility for relevant children

- (1) This section applies in relation to a local authority (“the first authority”) if—
- (a) the authority has functions under any of the relevant provisions in relation to a relevant child, or
 - (b) functions under any of the relevant provisions may be conferred on the authority in relation to a relevant child.
- (2) The first authority may make arrangements with another local authority in the same part of the United Kingdom (“the second authority”) under which—
- (a) if this section applies to the authority by virtue of paragraph (a) of subsection (1), the functions mentioned in that paragraph become functions of the second authority in relation to the relevant child, and
 - (b) if this section applies to the authority by virtue of paragraph (b) of subsection (1), the functions mentioned in that paragraph become functions that may be conferred on the second authority in relation to the relevant child.
- (3) The effect of arrangements under subsection (2) is that, from the time at which the arrangements have effect in accordance with their terms—
- (a) functions under the relevant provisions cease to be functions of, and may not be conferred on, the first authority in relation to the relevant child (“C”),
 - (b) any of the relevant provisions which immediately before that time applied in relation to C as a result of C’s connection with the first authority or the area of the first authority have effect as if C had that connection with the second authority or the area of the second authority (if that would not otherwise be the case), and
 - (c) C is to be treated for the purposes of the relevant provisions as if C were not and had never been ordinarily resident in the area of the first authority (if that would otherwise be the case).
- (3A) The first authority may make arrangements with another local authority in a different part of the United Kingdom (“the second authority”) having the effects mentioned in subsection (3B).
- (3B) The effects are that, from the time at which the arrangements have effect in accordance with their terms—
- (a) the first authority ceases to have any functions in relation to the relevant child (“C”) under the relevant provisions and functions under those provisions may not be conferred on the first authority in relation to C,
 - (b) C is to be treated as having a like connection with the second authority, or the area of the second authority, as C had immediately before that time with the first authority or the area of the first authority, and
 - (c) C is to be treated for the purposes of the relevant provisions in relation to both the first authority and the second authority as if the first authority had never had any functions in relation to C.

(3C) Where a statutory provision would, but for this subsection, require the approval of a court or of any other person for arrangements under subsection (3A), that statutory provision does not apply in relation to such arrangements.

(4) Subsections (3)(b) and (3B)(b) are subject to any change in C's circumstances after the time at which the arrangements have effect.

(5) Nothing in subsection (3) or (3B) affects any liability of the first authority in relation to C for any act or omission of the first authority before the time at which the arrangements have effect.

(6) The Secretary of State may by regulations make further provision about the effect of arrangements under this section.

(7) Arrangements under this section may not be brought to an end by the first or second authority once they have come into effect.

(8) In this section "local authority"—

(a) in relation to England and Wales has the same meaning as in the Children Act 1989 (see section 105(1) of that Act),

(b) in relation to Scotland means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994, and

(c) in relation to Northern Ireland means a Health and Social Care trust established under Article 10 of the Health and Personal Services (Northern Ireland) Order 1991.

(8A) In this section "the relevant provisions"—

(a) in relation to a local authority in England, means the provisions of or made under Part 3, 4 or 5 of the Children Act 1989 (support for children and families and care, supervision and protection of children), and

(b) in relation to a local authority in Wales, Scotland or Northern Ireland, means any statutory provision which confers functions on, or which are exercisable by, such an authority which correspond, or are similar, to the functions conferred on a local authority in England by or under any of those Parts of that Act.

(9) In this section "relevant child" means—

(a) a person under the age of 18 who is unaccompanied and has made a protection claim which has not been determined,

(b) a person under the age of 18 who is unaccompanied and who—

(i) requires leave to enter or remain in the United Kingdom but does not have it, and

(ii) is a person of a kind specified in regulations made by the Secretary of State, *or*

(c) a person under the age of 18 who is unaccompanied and who—

(i) has leave to enter or remain in the United Kingdom, and

(ii) is a person of a kind specified in regulations made by the Secretary of State, *or*

(d) an unaccompanied child, within the meaning of the Illegal Migration Act 2023.

(10) The Secretary of State may by regulations make provision about the meaning of “unaccompanied” for the purposes of subsection (9)(a) to (c).

(11) In subsection (9)—

(a) “protection claim” has the meaning given by section 82(2) of the Nationality, Immigration and Asylum Act 2002, and

(b) the reference to a protection claim having been determined is to be construed in accordance with section 94(3) of the Immigration and Asylum Act 1999.

(12) In this section “statutory provision” means a provision made by or under—

(a) an Act,

(b) an Act of the Scottish Parliament,

(c) a Measure or Act of the National Assembly for Wales, or

(d) an Act of the Northern Ireland Assembly.

(13) In this section a reference to a part of the United Kingdom is a reference to England, Wales, Scotland or Northern Ireland.

Section 61 of the Nationality and Borders Act 2022 as amended by clause 27(7) of the Bill

Section 61: Identified potential victims of slavery or human trafficking: recovery period

- (1) This section applies to a person (an “identified potential victim”) if—
- (a) a decision is made by a competent authority that there are reasonable grounds to believe that the person is a victim of slavery or human trafficking (a “positive reasonable grounds decision”), and
 - (b) that decision is not a further RG decision (as to which, see section 62).
- (2) Subject to section 63(2) *and section 21 of the Illegal Migration Act 2023 (provisions relating to removal and leave)*, the identified potential victim may not be removed from, or required to leave, the United Kingdom during the recovery period.
- (3) The “recovery period”, in relation to an identified potential victim, is the period—
- (a) beginning with the day on which the positive reasonable grounds decision is made, and
 - (b) ending with whichever of the following is the later—
 - (i) the day on which the conclusive grounds decision is made in relation to the identified potential victim;
 - (ii) the end of the period of 30 days beginning with the day mentioned in paragraph (a).

Section 62 of the Nationality and Borders Act 2022 as amended by clause 27(8) of the Bill

Section 62: No entitlement to additional recovery period etc

(1) This section applies where—

(a) a competent authority has previously made a positive reasonable grounds decision in relation to a person (the “first RG decision”), and

(b) a further positive reasonable grounds decision is made in relation to the person, in a case where the reasonable grounds for believing that the person is a victim of slavery or human trafficking arise from things done wholly before the first RG decision was made (the “further RG decision”).

(2) If the competent authority considers it appropriate in the circumstances of a particular case, the authority may determine that the person may not be removed from, or required to leave, the United Kingdom during the period—

(a) beginning with the day on which the further RG decision is made, and

(b) ending with whichever of the following is the later—

(i) the day on which the conclusive grounds decision is made in relation to the further RG decision;

(ii) the end of the period of 30 days beginning with the day mentioned in paragraph (a).

This is subject to section 63(2) and section 21 of the *Illegal Migration Act 2023* (provisions relating to removal and leave).

Section 63 of the Nationality and Borders Act 2022 as amended by clause 27(9) and 28(1) of the Bill

Section 63: Identified potential victims etc: disqualification from protection

(1) A competent authority may determine that subsection (2) is to apply to a person in relation to whom a positive reasonable grounds decision has been made if the authority is satisfied that the person—

- (a) is a threat to public order, or
- (b) has claimed to be a victim of slavery or human trafficking in bad faith.

(2) Where this subsection applies to a person the following cease to apply—

- (a) any prohibition on removing the person from, or requiring them to leave, the United Kingdom arising under section 61 or 62, and
- (b) any requirement under section 65 to grant the person limited leave to remain in the United Kingdom.

(3) For the purposes of this section, the circumstances in which a person is a threat to public order include, in particular, where—

- (a) the person has been convicted of a terrorist offence;
- (b) the person has been convicted of any other offence listed in Schedule 4 to the Modern Slavery Act 2015 anywhere in the United Kingdom, or of a corresponding offence;
- (c) the person is subject to a TPIM notice (within the meaning given by section 2 of the Terrorism Prevention and Investigation Measures Act 2011);
- (d) there are reasonable grounds to suspect that the person is or has been involved in terrorism-related activity within the meaning given by section 4 of that Act (whether or not the terrorism-related activity is attributable to the person being, or having been, a victim of slavery or human trafficking);
- (e) the person is subject to a temporary exclusion order imposed under section 2 of the Counter-Terrorism and Security Act 2015;
- (f) the person is a foreign criminal within the meaning given by section 32(1) of the UK Borders Act 2007 (automatic deportation for foreign criminals);
 - (fa) the person is liable to deportation from the United Kingdom under section 3(5) or (6) of the Immigration Act 1971 (deportation for the public good etc or as a result of recommendation following conviction);*
 - (fb) the person is liable to deportation from the United Kingdom under any provision of, or made under, any other enactment that provides for such deportation;*
- (g) the Secretary of State has made an order in relation to the person under section 40(2) of the British Nationality Act 1981 (order depriving person of citizenship status where to do so is conducive to the public good);
- (h) the Refugee Convention does not apply to the person by virtue of Article 1(F) of that Convention (serious criminals etc);

(i) the person otherwise poses a risk to the national security of the United Kingdom.

(4) In subsection (3)(a), “terrorist offence” means any of the following (whenever committed)—

(a) an offence listed in—

(i) Schedule A1 to the Sentencing Code (terrorism offences: England and Wales), or

(ii) Schedule 1A to the Counter-Terrorism Act 2008 (terrorism offences: Scotland and Northern Ireland);

(b) an offence that was determined to have a terrorist connection under—

(i) section 69 of the Sentencing Code (in the case of an offender sentenced in England and Wales), or

(ii) section 30 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in Northern Ireland, or an offender sentenced in England and Wales before the Sentencing Code applied);

(c) an offence that has been proved to have been aggravated by reason of having a terrorist connection under section 31 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in Scotland);

(d) an act constituting an offence under the law in force in a country outside the United Kingdom that—

(i) would have constituted an offence within paragraph (a) if it had been committed in any part of the United Kingdom, or

(ii) was, or took place in the course of, an act of terrorism or was done for the purposes of terrorism.

(5) In subsection (3) (b) “corresponding offence” means—

(a) an offence under the law of Scotland or of Northern Ireland which corresponds to an offence listed in Schedule 4 to the Modern Slavery Act 2015;

(b) an act constituting an offence under the law in force in a country outside the United Kingdom that would have constituted an offence listed in that Schedule if it had been committed in England or Wales.

(6) For the purposes of this section an act punishable under the law in force in a country outside the United Kingdom is regarded as constituting an offence under that law however it is described in that law.

(7) In this section—

- “act” includes an omission;
- “the Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and its Protocol;
- “terrorism” has the same meaning as in the Terrorism Act 2000 (see section 1 of that Act).

(8) See also section 21 of the Illegal Migration Act 2023 (provisions relating to removal and leave).

Section 65 of the Nationality and Borders Act 2022 as amended by clause 27(11)-(12) of the Bill

Section 65: Leave to remain for victims of slavery or human trafficking

(1) This section applies if a positive conclusive grounds decision is made in respect of a person—

(a) who is not a British citizen, and

(b) who does not have leave to remain in the United Kingdom.

(2) The Secretary of State must grant the person limited leave to remain in the United Kingdom if the Secretary of State considers it is necessary for the purpose of—

(a) assisting the person in their recovery from any physical or psychological harm arising from the relevant exploitation,

(b) enabling the person to seek compensation in respect of the relevant exploitation, or

(c) enabling the person to co-operate with a public authority in connection with an investigation or criminal proceedings in respect of the relevant exploitation.

(3) Subsection (2) is subject to section 63(2) *and* section 21 of the *Illegal Migration Act 2023* (provisions relating to removal and leave).

(4) Leave is not necessary for the purpose mentioned in—

(a) subsection (2)(a) if the Secretary of State considers that the person's need for assistance is capable of being met in a country or territory within paragraph (a) or (b) of subsection (5) (or both);

(b) subsection (2)(b) if the Secretary of State considers that—

(i) the person is capable of seeking compensation from outside the United Kingdom, and

(ii) it would be reasonable for the person to do so in the circumstances.

(5) A country or territory is within this subsection if—

(a) it is a country of which the person is a national or citizen;

(b) it is one to which the person may be removed in accordance with an agreement between that country or territory and the United Kingdom (which may be, but does not need to be, an agreement contemplated by Article 40(2) of the Trafficking Convention).

(6) Subsection (7) applies if the Secretary of State is satisfied that—

(a) the person is a threat to public order, or

(b) the person has claimed to be a victim of slavery or human trafficking in bad faith.

(7) Where this subsection applies—

(a) the Secretary of State is not required to grant the person leave under subsection (2), and

(b) if such leave has already been granted to the person, it may be revoked.

(8) Leave granted to a person under subsection (2) may be revoked in such other circumstances as may be prescribed in immigration rules.

(8A) Section 21 of the Illegal Migration Act 2023 also makes provision about the revocation of leave granted under subsection (2).

(9) Subsections (3) to (7) of section 63 apply for the purposes of this section as they apply for the purposes of that section.

(10) In this section—

“positive conclusive grounds decision” means a decision made by a competent authority that a person is a victim of slavery or human trafficking;

“public authority” means any public authority within the meaning of section 6 of the Human Rights Act 1998;

“the relevant exploitation” means the conduct resulting in the positive conclusive grounds decision.

(11) This section is to be treated for the purposes of section 3 of the Immigration Act 1971 as if it were provision made by that Act.